

Manipulable mores: an Analysis of Prisoner Attitudes to Rape[†]

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Introduction

David Heilpern's (1998) landmark study of five New South Wales prisons revealed that a shockingly high rate of male inmates are raped by other prisoners. Relying upon an expansive meta-analysis of international literature as well as his own research, Heilpern listed four general causes of rape in prison. This paper is concerned with one of those causes, a sociological explanation of sorts, in which Heilpern suggests that prisoners rape other prisoners partly for sexual gratification and partly to assert their power and position in the inmate hierarchy. From Heilpern's wider explanation of these dynamics, where he claims that as members of the working class prisoners are limited in their ability to express power other than through violence, Heilpern intimates that rape is permanently accepted by the prison subculture.

This paper will focus upon this single point, suggesting that prison subcultures are susceptible to fundamental changes in ethos so that rape is no longer accepted as a means to assert personal power and is even actively prevented along with common violence. This suggestion is drawn from a comparison of the studies of Power et al (1991) and Lockwood (1980), and from the limited qualitative and quantitative data of an aborted study conducted in 1997 at Risdon Prison, the central prison in Tasmania¹. Though this paper is specifically intended as a comment on Heilpern's thesis and not the body of literature regarding prison subcultures, it will be considered whether this change in attitude towards sexual assault might be due to the influence of a small number of dominant inmates.

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¹ The study was abandoned because a newspaper article caused antagonism to the present study. The departmental version of this paper contains greater detail of the problems encountered in conducting the research at the prison. a copy of the methodology can be obtained from the author.

Heilpern's (1998) Study and his Thesis Regarding Prisoners Attitudes to Rape

Typically, violence suffered by persons in the custody of the state is an important issue in civilized societies. However, for one reason or another, the rape of prisoners by other inmates has drawn very little attention in Australia in comparison with other jurisdictions (Hawkins 1974; Jacobs 1984; Kupers 1996; Leopold 1969; Money & Bohmer 1980; Martin & Webster 1971; *Out of Sight, Out of Mind: An Expose of the Australian Prison System* (video recording) 19 October 1988, ABC Television; Wodak 1992). Heilpern (1998) conducted the first serious attempt in Australia to gauge the prevalence of prison sexual assault, which he defined as any non-consensual sexual acts, including rape². He conducted 189 personal interviews and 300 questionnaires with inmates of five prisons in New South Wales. Twenty six per cent of inmates aged between 18 to 25, representing ten per cent of the entire prison population, indicated that they had been sexually assaulted by another inmate at least once during their prison sentence. Of this cohort, one quarter said they were sexually assaulted every week and for a small number sexual assault was a daily event.

Heilpern did not include any discussion of differing sociological theories of prison subcultures. Rather, his explanation of the role of sexual gratification and power as a cause of prison sexual assault has three main aspects, based on the quantitative and qualitative research by himself and others. The first aspect is that prison social structures are stratified on the basis of power – a hierarchy or pecking order exists based on 'brute force, gang power and fear' (Heilpern 1998:77). Secondly, sexual gratification is identified as a contributing factor in prison sexual assaults (see also Clayton 1970; Morris 1995) but is not considered to be the prime mover (Heilpern 1998). Thirdly, sexual assault is seen more commonly as a manifestation of the power stratifications in the prison society and, for the perpetrator, as an assertion of his dominance and might (see also Bartollas & Sieverdes 1983; Donaldson 1995; Donaldson et al 1995; Jones 1989; Yarvis 1995). Whilst the prison hierarchy is fluid and the position of most inmates is somewhat ambiguous, the victim of sexual assault has unquestionably the lowest standing amongst his fellow inmates – known in American prison subcultures as a 'punk' (Sykes 1958).

Heilpern offers a deeper explanation of the power stratifications existing in the prison subculture and the use of sexual assault as an expression of power. Drawing on the views of Donaldson (1993) and Scacco (1982; cited in Heilpern 1998:81) he suggests that the prison environment deprives inmates of the capacity to meet their emotional needs, leaving the pursuit of power as the only means of enriching their sense of individual worth, masculinity, and self efficacy. The middle class prison inmate in Australia can express power and status in many ways in the prison setting: wealth, family background and presumed also education. However, for the working class inmate the normal avenues of expressing power – exactly what avenues, Heilpern does not state – are completely inaccessible. Since (a) the bulk of prisoners are from working-class backgrounds and (b) inmates are 'likely to have experienced violence as a method of control by their family and/or by the state'³, then for many inmates

2 Heilpern (1998) defined 'sexual assault' for the inmate participants as, *inter alia*, 'unwanted anal sex, oral sex, fondling or wanking'. His questionnaires asked inmates whether, whilst in prison, they had been (a) scared of sexual assault (b) threatened with sexual assault or (c) actually sexually assaulted, and clearly distinguished sexual assault from non-sexual assault.

3 In regards to inmates past experiences with violence it is worth considering the evidence that inmate populations contain an abnormally high percentage of victims of child sexual assault (Dhawan & Marshall 1996) and that such maltreatment can sometimes lead to abusive sexual activity later on in life (Groth & Burgess 1980).

'one of the only ways of expressing power is through their ownership, sexually, of other men' (Heilpern 1998:81). Heilpern also contemplates whether sexual assault can represent a political act, which seems more worthy of discussion in the American setting with its severe racial tensions (see Clever (1968) and Jones (1989)).

Doubtless, variant criticisms could be levelled at Heilpern's thesis on the sociological dynamics of prison sexual assault⁴. However, it is the purpose of this paper to focus only on one fundamental assumption made by Heilpern: that the prison subculture is constant in its perspective of prison sexual assault. At no point does Heilpern specifically address this issue. Yet, Heilpern intimates a certain immutability regarding the factors which contribute to prisoner attitudes to sexual assault. Essentially he implies that, for the most part, the prison environment always deprives inmates of normal self-validating activities. Therefore, the only self-validating activity left is to pursue power. The background of most prisoners limits them to achieving power through violence, of which rape is a species. Rape therefore becomes an 'entrenched tradition' (Donaldson 1993; cited in Heilpern 1998 at 80).

Empirical Data Inconsistent with Heilpern's (1998) View

However, the empirical data gathered by a British research team, Power et al (1991), and the results of a small-scale study conducted in Tasmania do not sit comfortably with Heilpern's (1998) view of prison sexual assault as an axiomatic facet of prison life. The study conducted by Power et al (1991) involved several hundred personal interviews with prison inmates, totalling approximately 11.7 per cent of the entire Scottish prison population. None of the prisoners claimed that they had been sexually assaulted. Although many sources provide a litany of factors which could cause under-reporting in prison sexual assault research (Burgess 1983; Calderwood 1987; Donaldson 1993; Kaufman 1980; McGrath 1982; Mezey & King 1991; Whatley & Riggio 1993; Wright 1985), the findings of Power et al (1991) are so extreme that they are difficult to dismiss on this basis.

In 1997 the author of this paper conducted a study to assess the prevalence of sexual assault at Risdon Prison, the central prison in Tasmania. The study essentially adopted the methodology used by Heilpern (1998) in New South Wales to provide a comparison with the extent of sexual assault in the Tasmanian prison system. Unfortunately, the study was abandoned half way through for reasons beyond the researcher's control⁵. Nevertheless, during the subsistence of the study, personal interviews were conducted with 37 inmates and six professionals whose job description bought them in contact with the prison⁶. The 37 inmates interviewed also completed similar questionnaires to those used in the study by Heilpern (1998). Stringent measures to protect anonymity were adopted.

The general impression given by the quantitative and qualitative data in this study was that though sexual assault does occur in Risdon Prison, it is far less prevalent than in the institutions visited by Heilpern (1998) and certainly this was the view also of the professionals interviewed. The questionnaires indicated that none of the inmates had been sexually assaulted in prison, that they almost never felt scared of sexual assault, and that they were threatened with sexual assault extremely rarely. Eight of the inmates stated in the interviews that rape was unheard of in Risdon.

4 Do 'classes' exist in Australia, or only differing socioeconomic and educational strata?

5 See note 1.

6 Professionals included Elizabeth Moore (Probation and Parole Officer), Sally Dabner (Manager of Prison Education), Paul De Bomford (Director of Nursing, Risdon Prison), and Paul Denman (Team Leader of 'Your Place', a Government agency which aids people with drug or alcohol dependencies).

However, seventeen inmates indicated in the questionnaires that they knew inmates who had been sexually assaulted whilst in Risdon. Further, the existence of sexual assault in the prison per se was supported by the comments of a number of prisoners in interviews, such as one description of an inmate found just after a sexual assault. In addition, one of the professionals interviewed stated that three inmates had disclosed incidents of sexual assault to her and the Director of Nursing at the prison reported treating inmates with injuries consistent with sexual assault, stating, however, that such injuries were 'infrequent'.

The limitations of such small-scale data are considerable. However, it is argued here that even from this cursory investigation it does not appear that prisoners at Risdon suffer rape as an 'entrenched tradition' or that, as in the prisons studied by Heilpern (1998), one in ten inmates can expect to be raped at least once during their sentence.

Admittedly, Risdon Prison and most of the prisons studied by Power et al (1991) are peculiar in that they housed their inmates individually in cells. At the time that the research was conducted at Risdon it was the only prison in Australia that provided single cell accommodation for all of its prison population (Harvey, B 1998, pers. comm., 21 May; Department of Justice, 1998)⁷. The significance of this is that Heilpern (1998), amongst others, strongly recommended single cell accommodation to reduce prison sexual assault since potential victims stand very little chance of avoiding sexual assault if, by chance, they are housed in a cell with one or more rapists (Donaldson 1993; Donaldson 1995; Heilpern 1998). This was also the view expressed by all 41 participants of the Risdon study.

Cogent though this point may be, it is suggested that single cell accommodation is not in itself a panacea. Lockwood (1980) controverts any such suggestion. His research, equally as onerous as that of Power et al (1991), covered six prisons in America which had single cells and found that 28 per cent of inmates had been the target of sexual aggression. Over half the incidents, including gang rapes, occurred in public areas. The single cells, in Lockwood's opinion, only gave inmates protection once they were locked inside them. When elsewhere they were at risk.

Additionally, at Risdon Prison some sobering observations were made regarding the physical structure of the prison – essentially that it is impossible to patrol all areas. One professional worker attached to the prison suggested that in Risdon a non-violent sexual assault could occur in any area which is not under surveillance by cameras or is not frequently patrolled by prison officers. Tellingly, when inmates were asked where sexual assault could occur in the prison the most common response was 'anywhere'. Specifically identified places included work stations, the laundry, the gym, parts of the yards, the toilets, and the showers. Three inmates claimed that sexual assault could occur even in the cells if, during the day, the prisoners were allowed access to clean the cells.

Prisoners' Disapproval of Rape as a Factor Curbing Prison Sexual Assault

Power et al (1991) offered a two-fold explanation of their intriguing result. They did see single cell occupancy as a vital contributing factor. But, more importantly, they considered that the inmate population simply did not accept open homosexuality, consensual or otherwise, and this militated against prison sexual assault.

7 The current Tasmanian Custodial Policy Development Officer for Corrective Services.

Heilpern (1998) did not discuss this proposition. In fact, considering the significance of the findings of Power et al (1991) and the efficacy of their methodology, Heilpern (1998) arguably discussed the research in a relatively dismissive manner. Heilpern (1998) did discuss some findings that are inconsistent with those of Power et al (1991) regarding prison guards' estimates of consensual sexual activity (Harding 1987; cited in Heilpern 1998:57) and the consensual sexual activity of long-term prisoners (Prison Reform Trust 1990; cited in Heilpern 1998:57). Yet, neither of these studies are entirely germane since they are concerned with consensual acts, not sexual assault. More research will need to be conducted to verify the results of Power et al (1991). However, it seems expeditious of Heilpern to conclude that the situation with respect to the United Kingdom is 'uncertain' (Heilpern 1997: unpublished thesis 59) without considering whether the explanation offered by Power et al (1991) holds water; that the prison population does not approve of sexual assault and that most prisoners have their own cell.

Of the two factors highlighted by Power et al (1991), only single cell accommodation has received any serious attention by researchers. The same, however, cannot be said of inmates' attitudes towards sexual assault. Interestingly, it was precisely this factor which seemed to be extremely important at Risdon Prison in curbing the incidence of sexual assault. The interviews with the prisoners revealed that there are one or two socially powerful inmates in each yard who have real influence concerning what is regarded as acceptable inmate behaviour. Furthermore, it was apparent from these interviews that the whole prison social structure actually enforces this 'acceptable behaviour'. For instance, fighting is considered acceptable unless it involves victimisation of a vulnerable inmate. A serious taboo is intimidating others for commodities such as cigarettes or money. The worst taboo by far is intimidating an inmate for sexual favours⁸. Apparently, unacceptable behaviour is reprimanded with violence or the threat of violence by other inmates, usually those with some social standing. One inmate stated, 'We do half the job for the screws [prison officers]'. Three of the professionals interviewed agreed that the dynamics of the inmate social structure contribute to a reduction in sexual assaults and violence in this way. One stated that this thesis was 'very accurate'.

The discipline of the inmate social structure also accounts for the claim by many prisoners that gang rapes were not perpetrated within Risdon. Presumably gang rapes would easily draw attention and so to avoid retribution by other inmates rapists must attempt to attack their victims covertly.

However, the negative attitude towards sexual assault at Risdon may only have arisen recently. Three inmates independently stated that roughly three years prior to the study the social structure of Risdon actually condoned sexual assaults. The claim that the inmate society condoned sexual assault only a few years before is supported, to an extent, by the completed questionnaires. The prisoners who knew victims of prison sexual assault were mostly aged between 20 to 25 and had been incarcerated previously⁹. Possibly, the younger inmates who have arrived in the last three years knew of fewer instances of sexual assault than the older inmates because the prevalence of the crime had reduced in that period.

8 Interestingly, no reference was made by the inmates to suggest that consensual sexual activity was considered a taboo.

9 Under the guidance of Dr Frances Martin (Senior Lecturer, Faculty of Psychology, University of Tasmania) statistical analysis of the questionnaires was completed using t-test, analysis of variance and multiple analysis of variance statistical methods. Statistically significant differences were found between the young inmates and the old inmates in their responses to the question 'Do you know anyone who has been sexually assaulted in prison?' ($F(3, 31) = 3.41; p < 0.03$).

When asked why the situation was different just three years earlier the prisoners claimed that the inmates who were at the peak of the social hierarchy at that stage were themselves perpetrators of sexual assaults and thus influenced the entire population. One of the professionals interviewed for the study, who was the Prison Programs Officer at Risdon during this period, agreed with this view and pointed out that the most powerful figures within the inmate population, at that time, were serving sentences for violent sexual offences. She claimed that, in her experience, the most powerful inmates are those who either have a great capacity for violence – including sexual violence, or, are intelligent and charismatic. She was of the view that the current leaders of the social hierarchy are powerful because of their intelligence and charisma and she did not think that they would condone sexual assault. Consequently, it has been established among the prison population that sexual assault will not be tolerated. Therefore, whether sexual assault constitutes acceptable behaviour among the inmates may hinge upon the attitude of a few key leaders.

It is not suggested that the social dynamics of Risdon Prison and the Scottish prisons studied by Power et al (1991) are identical. Firstly, unlike the Scottish prisons, a strong disdain towards consensual homosexual sexual activity was not encountered amongst the inmates of Risdon¹⁰. Additionally, whereas consensual sexual activity appeared to be non-existent in the Scottish prisons, the inmates of Risdon Prison acknowledged that consensual sexual activity occurred. One of the professionals interviewed for the study suggested that approximately five per cent of prisoners engaged in consensual sexual acts. Finally, in contrast with the prisons in Scotland, since Risdon draws its inmate population from Tasmania, a small island with a relatively low civil population, there is arguably a greater likelihood of close social networks amongst inmates both within and outside of the prison context¹¹. Notwithstanding, one definite similarity of the inmate populations is their rejection of prison sexual assault. Therefore, it is suggested that the influence of key inmates may work to enforce the rejection of sexual assault in the Scottish prisons studied by Power et al (1991), as seems to occur in Risdon.

Other Evidence of the Ability of Individual Inmates to Influence Prison Populations

The ability of individual inmates to broadly influence prison populations has been recognised elsewhere, such as in reducing contraband (Marquart & Roebuck 1985; Kalinich & Stojkovic 1985). The empirical observations of Sykes (1958) are, however, the most similar findings to those drawn from the study at Risdon. It must be clearly stated that it is beyond the scope of this discussion to consider the perspectives that could be drawn from the deprivation model or the importation model (see Hawkins 1974; Mathieson 1990). Instead, Sykes (1958) is referred to here in the role of an empirical researcher rather than a penologist. After a three year study of one prison, Sykes (1958) noted that the typical state of violence, self-centredness, and distrust occasionally gave way to periods of group solidarity and cohesion. Sykes (1958) observed that the catalyst to the establishment and maintenance of periods of cohesion were particular inmates who were 'so committed to group solidarity in thought and behaviour' that they often arose into 'positions of

10 The highly publicized gay law reform in Tasmania in the mid-nineties has been attributed for portraying Tasmanian society as highly homophobic, perhaps erroneously. The law against homosexual acts was not enforced for a number of decades before it was overturned. For a comprehensive analysis of the topic see Kirby (1997), Croome (1997), and Purvis & Castellino (1997).

11 Many thanks to an anonymous reviewer of this article for drawing my attention to the importance of this point.

dominance by virtue of their personal charisma and [were] followed because they [were] admired' (Sykes 1958:125). Importantly, when such figures arose 'exploitation [and] conflict among the prisoners ... was curbed by the inmates themselves' (Sykes 1958:127). Arguably, these observations substantiate the suggestion that dominant inmate figures could affect the levels of sexual and non-sexual violence within Risdon, and imply that such dynamics are not peculiar to Risdon Prison.

Conclusion

This paper has explored a single assumption of Heilpern's (1998) study, that prison populations consistently accept rape as a fact of prison life. The most challenging evidence against this thesis is that rape does not seem to occur at all or very little in some prisons (Power et al 1991). Though single cell accommodation is bound to reduce the frequency of prison sexual assault, some institutions with single cell occupancy still display a very high prevalence of sexual assault (Lockwood 1981). The qualitative data of a small study conducted in Tasmania, also with single cell accommodation for its inmates, indicated that the prevalence of rape seems to depend upon socially powerful inmates who can influence the attitudes of the entire inmate population to either to accept rape – probably as a means of asserting power and dominance – or to actively prevent it. The capacity for single inmates to raise the mores of entire prison populations was noted some time ago (Sykes 1958). However, the implications this has in terms of strategies to reduce sexual assault in prison has not been considered. In an area of criminology as neglected as prison sexual assault it is almost a truism to state that future research is needed. Nevertheless, areas of research suggested by this paper include the role of inmate leaders and their influence upon inmate codes, and whether the influence of positive leaders could be enhanced using prison management techniques.

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